REMARKS

Claims 1-5 and 24 are now pending in this application, with claims 1, 3, 5 and 24 being independent. Claims 6-23 and 25 have been cancelled.

The Office Action required restriction of the present application to one of the following inventions:

I. Claims 1-5 and 24, drawn to a method for allowing a plurality of participants to prepay for services or goods to be received at a later date from one of a plurality of specified providers; and

II. Claims 6-23 and 25, drawn to a method for allowing a plurality of participants to prepay for educational services to be received at a later date from one of plurality of specified educational institutions.

In response to the Office Action dated March 23, 2001, Applicant elects, without traverse, to prosecute Claims 1-5 and 24. Claims 6-23 and 25 have been cancelled, but will be presented in a co-pending divisional application.

An earlier Office Action, dated November 9, 2000, rejected independent claim 5 under 35 U.S.C. §102(a) as anticipated by U.S. Patent No. 5,794,207 to Walker et al.; rejected claims 1-4 and 24 under 35 U.S.C. 103(a) as obvious from

Walker '207 in view of U.S. Patent No. 6,134,534 to Walker et al. Those rejections will now be addressed.

As a threshold matter, the applicant notes that the publication date of Walker '207 is August 11, 1998, less than six months before the priority date of the present application; and that the publication date of Walker '534 is October 17, 2000, some twenty months after the priority date of the present application. The Walker patents, therefore, are not prior art to the present application under 35 U.S.C. § 102(b). Accordingly, while the applicant will address the rejections based upon the Walker patents by addressing those documents on the merits, this is in no way to be construed as an admission that the Walker patents are in fact prior art.

As recited in the independent claims, the present invention relates to a system or method for allowing plural participants to prepay for services or goods to be received at a later date from one of a plurality of specified providers. In the present invention, contracts are executed between an administrating entity and each of the participants, in which the participant pays a cash amount to the administrating entity and in return receives a promise to deliver at a future date a specified measure of services or goods, to be provided by

whichever of the providers the participant selects. For each of the specified providers, a predicted total measure of services or goods that will be required from the aggregate of the participants is determined. Then, contracts are executed between the administrating entity and each of the plurality of specified providers, in which the administrating entity pays a cash amount to the provider, and in return receives a promise to deliver a specified measure of services or goods.

In accordance with each of the pending claims, the cash amounts that correspond to the measures of services or goods are set by the providers. That is to say, the providers set the prices.

To illustrate an example, and without limiting the broad applicability of the claims, the present invention may be used to implement a pre-paid college tuition program. In such a system, parents (participants, in the parlance of the claim) prepay tuition for college education (a good or service, in the parlance of the claim), to be received when their child reaches college age (a later date, in the parlance of the claim) from any one of several colleges (a plurality of specified providers, in the parlance of the claim). Contracts are executed between an administrating entity and each of the parents, in which the

parents make a tuition prepayment, and receive a promise to deliver in the future a specified measure of educational services (such as, for example, a year of schooling) from whichever of the specified colleges the parent selects. For each college, a predicted total measure of schooling that will be required from the aggregate of the parents in the program is determined. Then, contracts are executed between the administrating entity and each of the colleges, in which the administrating entity pays a cash amount to the college, and in return receives a promise to deliver a specified measure of schooling.

For each college, the cash amount that corresponds to the specified measure of schooling is set by the college. These may be the same from school to school, or may be different. For example, it is quite possible that College A would set a price of $10,000 for one year of schooling; College B a price of $15,000 for one year of schooling; College C a price of $20,000 for one year of schooling; and College D, like College B, a price of $15,000 for one year of schooling. Invariably, however, it is the college that sets the price.

Both Walker '207 and Walker '534, in stark contrast, relate to buyer-driven systems, in which buyers, and not sellers, set the prices. Indeed, the commercial embodiment of the Walker

patents is the well-known Web site of Priceline.com, which in its advertisements invites buyers to "Name Your Own Price."

The Walker patents are eminently clear on this point. For example, Walker '207 states that:

> it is one object of the present invention to set forth a system of bilateral buyer-driven electronic commerce that offers the capability for individual buyers to issue authenticatable messages which contain the terms of a purchase offer and publish that purchase offer globally to potential sellers.

(Walker '207 at col. 7:30-35)(emphasis added). Similarly, Walker '534 states:

> A further need exists for a buyer-driven system that permits a cruise operator to sell tickets to leisure travelers at a price set by the customer.

(Walker '534 at 2:46-48).

More specifically, the Walker patents relate to a method of effecting a so-called "reverse auction," that allows a buyer interested in good or service to specify the price that he or she is willing to pay. The Walker system is implemented by inputting into a computer a conditional purchase offer (CPO), stating the price the buyer is willing to pay and the specifics of the goods or services desired. A payment identifier is also input to the computer. The computer then outputs the CPO to a plurality of sellers. Any seller willing to accept the CPO then

notifies the computer, which in turn provides the payment identifier to the seller so that the transaction can be finalized.

In the Walker system (as described in both Walker '207 and '534), therefore, only a buyer, and never a seller, sets the price. This is completely different than the system of the present invention, in which only sellers (i.e., providers), and never buyers (i.e., participants), set the prices. In view of these fundamental differences, neither of the Walker references, taken either alone or together, can anticipate or render obvious any of the present pending independent claims.

The remaining claims also recite all the features of the independent claims discussed above, and are believed to be patentable for the same reasons. In addition, these claims recite additional patentable features of the present invention, and individual consideration of each is respectfully requested.

CONCLUSION

In view of the foregoing remarks, an early and favorable examination on the merits is respectfully requested.

The applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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